

House Bill 419 (AS PASSED HOUSE AND SENATE)

By: Representatives Floyd of the 147th, Rice of the 51st, Powell of the 29th, and Bearden of the 68th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to
2 drivers' licenses, so as to provide that suspensions by operation of law run consecutively to
3 any other suspension imposed by the department; to provide for definitions of certain terms;
4 to change provisions relating to issuance of commercial drivers' licenses and permits; to
5 provide for expiration of commercial drivers' licenses; to provide for disqualifications,
6 revocations, and suspensions of commercial drivers' licenses; to provide penalties for
7 violations; to amend Code Section 40-16-4 of the Official Code of Georgia Annotated,
8 relating to duties of the commissioner of driver services, so as to give the commissioner the
9 power to hire investigators; to provide for related matters; to provide an effective date; to
10 repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,
14 is amended by revising Code Section 40-5-75, relating to suspension of licenses by operation
15 of law, by adding a new subsection (i) as follows:

16 "(i) Notwithstanding any other provision of this chapter to the contrary, the suspension
17 imposed pursuant to this Code section shall be in addition to and run consecutively to any
18 other suspension imposed by the department at the time of the conviction that results in
19 said suspension. If the person has never been issued a driver's license, the person shall not
20 be eligible for a driver's license for the applicable period of suspension following his or her
21 submission of an application for issuance thereof."

22 **SECTION 2.**

23 Said chapter is further amended by revising Code Section 40-5-142, relating to definitions
24 of terms, as follows:

1 "40-5-142.

2 As used in this article, the term:

3 (1) 'Alcohol' means:

4 (A) Beer, ale, port, or stout and other similar fermented beverages, including sake or
5 similar products, of any name or description containing one-half of 1 percent or more
6 of alcohol by volume, brewed or produced from malt, wholly or in part, or from any
7 substitute therefor;

8 (B) Wine of not less than one-half of 1 percent of alcohol by volume;

9 (C) Distilled spirits which means that substance known as ethyl alcohol, ethanol, or
10 spirits of wine in any form, including all dilutions and mixtures thereof from whatever
11 source or by whatever process produced; or

12 (D) Any substance containing any form of alcohol, including, but not limited to,
13 ethanol, methanol, propanol, and isopropanol.

14 (2) 'Alcohol concentration' means:

15 (A) The number of grams of alcohol per 100 milliliters of blood;

16 (B) The number of grams of alcohol per 210 liters of breath; or

17 (C) The number of grams of alcohol per 67 milliliters of urine.

18 (3) 'Commerce' means:

19 (A) Trade, traffic, and transportation within the jurisdiction of the United States
20 between locations in a state and between a location in a state and a location outside
21 such state including a location outside the United States; and

22 (B) Trade, traffic, and transportation in the United States which affects any trade,
23 traffic, and transportation described in subparagraph (A) of this paragraph.

24 (4) 'Commercial Driver License Information System' (CDLIS) means the information
25 system established pursuant to the Commercial Motor Vehicle Safety Act of 1986, Title
26 XII, Public Law 99-570, to serve as a clearing-house for locating information related to
27 the licensing and identification of commercial motor vehicle drivers.

28 (5) 'Commercial driver's instruction permit' means a permit issued pursuant to
29 subsection (c) of Code Section 40-5-147.

30 (6) 'Commercial driver's license' (CDL) means a license issued in accordance with the
31 requirements of this article to an individual which authorizes the individual to drive a
32 class of commercial motor vehicle.

33 (7) 'Commercial motor vehicle' means a motor vehicle designed or used to transport
34 passengers or property:

35 (A) If the vehicle has a gross vehicle weight rating of 26,001 or more pounds or such
36 lesser rating as determined by federal regulation;

1 (B) If the vehicle is designed to transport 16 or more passengers, including the driver;
2 or

3 (C) If the vehicle is transporting hazardous materials as designated under 49 U.S.C.
4 Section 5103 and is required to be placarded in accordance with the Motor Carrier
5 Safety Rules prescribed by the United States Department of Transportation, Title 49
6 C.F.R. Part 172, subpart F or is transporting any quantity of a material listed as a select
7 agent or toxin in Title 42 C.F.R. Part 73;

8 provided, however, that for the purposes of this article, no agricultural vehicle,
9 commercial vehicle operated by military personnel for military purposes, recreational
10 vehicle, or fire-fighting or emergency equipment vehicle shall be considered a
11 commercial vehicle. As used in this paragraph, the term 'fire-fighting or emergency
12 equipment vehicle' means an authorized emergency vehicle as defined in paragraph (5)
13 of Code Section 40-1-1; provided, however, that the vehicle must be equipped with
14 audible and visible signals and shall be subject to traffic regulations in accordance with
15 the requirements of Code Section 40-6-6. As used in this paragraph, the term 'agricultural
16 vehicle' means a farm vehicle which is controlled and operated by a farmer, including
17 operation by employees or family members; used to transport agricultural products, farm
18 machinery, or farm supplies to or from a farm; and operated within 150 miles of such
19 person's farm; which vehicle is not used in the operations of a common or contract
20 carrier. Any other waiver by the Federal Motor Carrier Safety Administration pursuant
21 to Federal Law 49 C.F.R. Parts 383 and 384 of the United States Department of
22 Transportation shall supersede state law in authorizing the Department of Driver Services
23 to exempt said classes.

24 (8) 'Controlled substance' means any substance so defined under Code Section 16-13-21
25 and includes all substances listed in Schedules I through V of 21 C.F.R. Part 1308, as
26 they may be revised from time to time.

27 (9) 'Conviction' means an unvacated adjudication of guilt, or a determination that a
28 person has violated or failed to comply with the law in a court of original jurisdiction or
29 by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral
30 deposited to secure the person's appearance in court, a plea of guilty or nolo contendere
31 accepted by the court, the payment of a fine or court cost, or violation of a condition of
32 release without bail, regardless of whether the penalty is rebated, suspended, or probated.

33 (10) 'Disqualification' means any of the following:

34 (A) The suspension, revocation, or cancellation of a commercial driver's license by any
35 state or jurisdiction of issuance;

36 (B) The withdrawal of a person's privilege to drive a commercial motor vehicle by any
37 state or by any other jurisdiction as the result of a violation of any state or local law

1 relating to motor vehicle traffic control, other than parking, vehicle weight, or vehicle
2 defect violations; or

3 (C) A determination by the Federal Motor Carrier Safety Administration that a person
4 is not qualified to operate a commercial motor vehicle.

5 (11) 'Drive' means to operate or be in actual physical control of a motor vehicle in any
6 place open to the general public for purposes of vehicular traffic. For purposes of Code
7 Sections 40-5-151 and 40-5-152, 'drive' includes operation or actual physical control of
8 a motor vehicle anywhere in this state, in any other state, or in any foreign jurisdiction.

9 (12) 'Driver' means any person who drives, operates, or is in actual physical control of
10 a commercial motor vehicle in any place open to the general public for purposes of
11 vehicular traffic or who is required to hold a commercial driver's license.

12 (13) 'Driver's license' means a license issued by a state to any individual which
13 authorizes the individual to drive a motor vehicle.

14 (13.1) 'Driving a ~~commercial~~ vehicle ~~while under the influence of alcohol~~ influence'
15 means committing any one or more of the following acts while a person is driving or in
16 actual physical control of a moving commercial or noncommercial motor vehicle:

17 (A) ~~Driving while the person's alcohol concentration is 0.04 percent or more by weight~~
18 ~~of alcohol in his or her blood, breath, or urine;~~

19 ~~(B)~~ Driving under the influence of alcohol, as prescribed by Code Section 40-6-391;
20 or any law or ordinance equivalent thereto in this state, in any other state, or in any
21 foreign jurisdiction; or

22 ~~(C)~~ (B) Refusal to submit to state-administered chemical testing when requested to do
23 so by a law enforcement officer.

24 (14) 'Employer' means any person, including the United States, a state, or a political
25 subdivision of a state, who owns or leases a commercial motor vehicle or assigns a person
26 to drive a commercial motor vehicle on its behalf.

27 (14.1) 'Fatality' means the death of a person as a result of a motor vehicle crash.

28 (15) 'Felony' means any offense under state or federal law that is punishable by death,
29 by imprisonment for life, or by imprisonment for more than 12 months.

30 (16) 'Foreign jurisdiction' means any jurisdiction other than a state of the United States.

31 (17) 'Gross vehicle weight rating' (GVWR) means the value specified by the
32 manufacturer or manufacturers as the maximum loaded weight of a single or a
33 combination (articulated) vehicle, or registered gross weight, whichever is greater. The
34 gross vehicle weight rating of a combination (articulated) vehicle, commonly referred to
35 as the 'gross combination weight rating' (GCWR), is the gross vehicle weight rating of
36 the power unit plus the gross vehicle weight rating of the towed unit or units. In the
37 absence of a value specified for the towed unit or units by the manufacturer or

1 manufacturers, the gross vehicle weight rating of a combination (articulated) vehicle is
2 the gross vehicle weight rating of the power unit plus the total weight of the towed unit
3 or units, including the loads on them.

4 (18) 'Hazardous materials' ~~has the meaning the term has under 49 U.S.C.A. Section 5101,~~
5 ~~et seq.~~ means any material that has been designated as hazardous under 49 U.S.C. Section
6 5103 and is required to be placarded in accordance with the Motor Carrier Safety Rules
7 prescribed by the United States Department of Transportation, Title 49 C.F.R. Part 172,
8 subpart F or any quantity of a material listed as a select agent or toxin in Title 42 C.F.R.
9 Part 73.

10 (18.1) 'Imminent hazard' means the existence of a condition that presents a substantial
11 likelihood that death, serious illness, severe personal injury, or a substantial
12 endangerment to health, property, or the environment may occur before the reasonably
13 foreseeable completion date of a formal proceeding begun to lessen the risk of that death,
14 illness, injury, or endangerment.

15 (18.2) 'Major traffic violation' means a conviction of any of the following offenses or a
16 conviction of any law or ordinance equivalent thereto in this state, in any other state, or
17 in any foreign jurisdiction, when operating either a commercial motor vehicle or, unless
18 otherwise specified, a noncommercial motor vehicle:

19 (A) Driving a vehicle under the influence in violation of Code Section 40-6-391;

20 (B) Hit and run or leaving the scene of an accident in violation of Code Section
21 40-6-270, failure to report striking an unattended vehicle in violation of Code Section
22 40-6-271, failure to report striking a fixed object in violation of Code Section 40-6-272,
23 or failure to report an accident in violation of Code Section 40-6-273;

24 (C) Except as provided in subsection (b) of Code Section 40-5-151, any felony in the
25 commission of which a motor vehicle is used;

26 (D) Driving a commercial motor vehicle while the person's commercial driver's
27 license or commercial driving privilege is revoked, suspended, canceled, or
28 disqualified;

29 (E) Homicide by vehicle in violation of Code Section 40-6-393;

30 (F) Racing on highways or streets in violation of Code Section 40-6-186;

31 (G) Using a motor vehicle in fleeing or attempting to elude an officer in violation of
32 Code Section 40-6-395;

33 (H) Fraudulent or fictitious use of or application for a license as provided in Code
34 Section 40-5-120 or 40-5-125;

35 (I) Operating a motor vehicle with a revoked, canceled, or suspended registration in
36 violation of Code Section 40-6-15;

(J) Violating Code Sections 16-8-2 through 16-8-9, if the property that was the subject of the theft was a vehicle engaged in commercial transportation of cargo or any appurtenance thereto or the cargo being transported therein or thereon, as set forth in paragraph (8) of subsection (a) of Code Section 16-8-12; or

(K) Refusing to submit to a state administered chemical test requested by a law enforcement officer pursuant to Code Section 40-5-55.

(19) 'Motor vehicle' means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include any vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(19.1) 'Noncommercial motor vehicle' means a motor vehicle or combination of vehicles not defined by the term 'commercial motor vehicle' in this Code section or in the regulations of the department for the purpose of licensure.

(20) 'Nonresident commercial driver's license' means a commercial driver's license issued by a state to any individual who resides in a foreign jurisdiction.

(21) ~~'Out-of-service~~ Out-of-service order' means a temporary prohibition against driving a commercial motor vehicle.

(21.1) 'School bus' means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students from home to school, from school to home, or to and from school sponsored events. The term does not include a bus used as a common carrier.

(22) 'Serious traffic violation' means conviction of any of the following offenses or a conviction of any law or ordinance equivalent thereto in this state, in any other state, or in any foreign jurisdiction, when operating either a commercial motor vehicle or unless otherwise specified, a noncommercial motor vehicle:

(A) Speeding 15 or more miles per hour above the posted speed limit;

(B) Reckless driving, ~~as defined under state or local law~~;

(C) Following another vehicle too closely, ~~as defined under state or local law~~;

(D) Improper or erratic lane change, ~~which presents a risk to any other vehicle, but not including failure to signal a lane change~~;

(E) A violation, arising in connection with a fatal crash, of state law or a local ordinance, relating to motor vehicle traffic control, excluding parking, weight, length, height, and vehicle defect violations, and excluding homicide by vehicle as defined in Code Section 40-6-393;

(F) A railroad grade crossing violation ~~as defined under state law or local ordinance in a noncommercial motor vehicle~~;

(G) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(H) Driving a commercial motor vehicle without a ~~valid~~ commercial driver's license in the driver's immediate possession, and excluding such violations when the person's commercial driver's license or commercial driving privilege is suspended, revoked, canceled, or disqualified; or

(I) Driving a commercial motor vehicle without a commercial driver's license of the proper class ~~and/or~~ and endorsements for the specific vehicle being operated or for the passengers or type of cargo transported.

(23) 'State' means a state of the United States and the District of Columbia.

(24) 'Tank vehicle' means any commercial motor vehicle designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks as defined by federal law. However, the term 'tank vehicle' shall not include a portable tank having a rated capacity under 1,000 gallons.

(25) 'United States' means the 50 states and the District of Columbia."

SECTION 3.

Said chapter is further amended by revising paragraph (1) of subsection (a) and adding a new subsection (e) of Code Section 40-5-147, relating to the requirements for issuing a commercial driver's license or instruction permit, as follows:

"(a)(1) Except as provided in Code Section 40-5-148, no person may be issued a commercial driver's license unless that person is a resident of this state, is at least 18 years of age, has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulations enumerated in 49 C.F.R. Part 383, subparts G and H, ~~has completed the Highway Watch safety and security training program or its federally designated successor program and is properly registered with the same~~, and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986, Title XII of Public Law 99-570, in addition to any other requirements imposed by state law or federal regulation. The tests shall be prescribed and conducted by the department in English only."

"(e) The department is authorized to promulgate rules necessary to grant a waiver or exemption of the physical requirements for a commercial driver's license or a commercial driver's instruction permit in 49 C.F.R. Part 391, Subpart E; provided, however, that the person who is applying for a commercial driver's license or a commercial driver's instruction permit or who has previously been issued a commercial driver's license and who is granted the waiver or exemption shall only be authorized to drive a commercial

motor vehicle in this state. Notwithstanding this subsection, the department shall not grant any type of waiver or exemption of said physical requirements unless such type of waiver or exemption has previously been granted by the Federal Motor Carrier Safety Administration."

SECTION 4.

Said chapter is further amended by revising subsections (g) and (h) of Code Section 40-5-150, relating to commercial driver's licenses, as follows:

"(g) ~~Except as provided for in Code Section 40-5-21.1, the~~ The commercial driver's license shall expire on the licensee's birthdate in the ~~fourth~~ fifth year following the issuance of such license.

(h) When applying for renewal of a commercial driver's license, the applicant shall complete the application form required by subsection (a) of Code Section 40-5-149, providing updated information and required medical certifications, ~~and provide evidence the applicant has completed the Highway Watch safety and security training program or its federally designated successor program and is properly registered with the same.~~ If the applicant wishes to retain a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed."

SECTION 5.

Said chapter is further amended by revising Code Section 40-5-151, relating to disqualifications from commercial driving, as follows:

"40-5-151.

(a) Any person is disqualified from driving a commercial motor vehicle for a period of not less than one year:

~~(1) If~~ if convicted of a first violation of: a major traffic violation as defined in paragraph (18.2) of Code Section 40-5-142.

~~(A) Any offense specified in Code Section 40-5-54 that occurs while the person is driving or being in actual physical control of a moving commercial motor vehicle or a moving noncommercial vehicle;~~

~~(B) Driving or being in actual physical control of a moving commercial motor vehicle while there is 0.04 percent or more by weight of alcohol in his or her blood, breath, or urine;~~

~~(C) Driving or being in actual physical control of a moving noncommercial vehicle in violation of Code Section 40-6-391; or~~

~~(D) Code Sections 16-8-2 through 16-8-9, if the property that was the subject of the theft was a vehicle engaged in commercial transportation as set forth in paragraph (8) of subsection (a) of Code Section 16-8-12, or~~

~~(2) For refusal to submit to a test as prescribed in Code Section 40-5-55 to determine the driver's alcohol concentration while driving a commercial motor vehicle or a noncommercial motor vehicle.~~

(b) Any person is disqualified from driving a commercial motor vehicle for a period of ~~not less than~~ three years if convicted of a first violation of using a commercial motor vehicle in the commission of a felony or ~~for offenses specified in subsection (a) of this Code section~~ a major traffic violation as defined in paragraph (18.2) of Code Section 40-5-142, provided that the vehicle being operated or used in connection with such violation or commission of such felony is transporting a hazardous material required to be placarded under Section 105 of the Hazardous Material Transportation Act.

(c) Any person is disqualified from driving a commercial motor vehicle for life if convicted of ~~two or more violations of any of the offenses specified in subsection (a) of Code Section 40-5-54, paragraph (1) of subsection (b) of Code Section 40-5-146, or Code Section 40-6-391, the refusal to submit to state administered chemical testing as prescribed by Code Section 40-5-55;~~ a second or subsequent major traffic violation as defined in paragraph (18.2) of Code Section 40-5-142 or any combination of ~~those~~ such violations ~~offenses or refusals~~, arising from two or more separate incidents.

(d) The department may issue regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (c) of this Code section may be reduced to a period of not less than ten years. The department is not authorized to make any other reduction in a term of disqualification or to issue a limited or other permit or license that would allow the operation of a commercial motor vehicle during the term of disqualification mandated by this Code section.

(e) ~~Any~~ Notwithstanding the provisions of subsection (d) of this Code section, any person is disqualified from driving a commercial motor vehicle for life who knowingly uses a ~~commercial~~ motor vehicle in the commission of any felony involving the manufacture, distribution, cultivation, sale, transfer of, trafficking in, or dispensing of a controlled substance or marijuana, or possession with intent to manufacture, distribute, cultivate, sell, transfer, traffic in, or dispense a controlled substance or marijuana.

~~(f)(1) Except as otherwise provided by paragraph (2) of this subsection, any~~ Any person is disqualified from driving a commercial motor vehicle for a period of:

(1) Not ~~not~~ less than 60 days if convicted of two serious traffic violations ~~or 120 days if convicted of three serious traffic violations committed in a commercial motor vehicle or a noncommercial motor vehicle~~ as defined in paragraph (22) of Code Section 40-5-142

1 arising from separate incidents occurring within a three-year period as measured from the
2 dates of arrests for which convictions were obtained: or

3 ~~(2) If the serious traffic violation committed in a commercial motor vehicle is a railroad~~
4 ~~grade crossing violation, the person shall be disqualified from driving a commercial~~
5 ~~motor vehicle for a period of not less than 60 days upon the first conviction within a~~
6 ~~three-year period as measured from the dates of arrests for which convictions were~~
7 ~~obtained, for not less than 120 days if convicted of two railroad grade crossing violations~~
8 ~~arising from separate incidents within a three-year period as measured from the dates of~~
9 ~~arrests for which convictions were obtained, or for not less than one year if convicted of~~
10 ~~three railroad grade crossing violations arising from separate incidents within a three-year~~
11 ~~period as measured from the dates of arrests for which convictions were obtained~~ Not less
12 than 120 days if convicted of a third or subsequent serious traffic violation as defined in
13 paragraph (22) of Code Section 40-5-142 arising from separate incidents occurring within
14 a three-year period as measured from the dates of arrests for which convictions were
15 obtained.

16 (g)(1) Any person is disqualified from driving a commercial motor vehicle based on the
17 following violations of out-of-service orders:

18 (A) First violation — a driver who is convicted of a first violation of an out-of-service
19 order is disqualified for a period of not less than 90 days and not more than one year;

20 (B) Second violation — a driver who is convicted of two violations of out-of-service
21 orders in separate incidents is disqualified for a period of not less than one year and not
22 more than five years; and

23 (C) Third or subsequent violation — a driver who is convicted of three or more
24 violations of out-of-service orders in separate incidents is disqualified for a period of
25 not less than three years and not more than five years.

26 (2) Whenever the operator of a commercial motor vehicle is issued an out-of-service
27 order, a copy of such order shall be issued to the operator of the commercial motor
28 vehicle, the operator of the commercial motor vehicle's employer, and a copy or notice
29 of such out-of-service order shall be provided to the department. The form of such
30 out-of-service order, the procedures for notifying the department upon the issuance of
31 such an order, and other matters relative to the issuance of out-of-service orders and
32 violations thereof shall be provided in rules and regulations promulgated by the
33 commissioner.

34 (3) Any person is disqualified for a period of not less than 180 days nor more than two
35 years if the driver is convicted of a first violation of an out-of-service order while
36 transporting hazardous materials required to be placarded under Section 105 of the
37 Hazardous Materials Transportation Act, or while operating commercial motor vehicles

designed to transport more than 15 passengers, including the driver. A driver is disqualified for a period of not less than three years nor more than five years if, during any ten-year period, the driver is convicted of any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under Section 105 of the Hazardous Materials Transportation Act, or while operating commercial motor vehicles designed to transport more than 15 passengers, including the driver.

(4) In addition to any other penalty imposed pursuant to this article, any driver who is convicted of ~~a railroad grade crossing violation in a commercial vehicle~~ violating an out-of-service order shall be subject to a civil penalty of not less than \$1,100.00 and not to exceed \$2,750.00.

(h) After suspending, revoking, or canceling a commercial driver's license, the department shall update its records to reflect that action within ten days. After suspending, revoking, or canceling a nonresident commercial driver's privileges, the department shall notify the licensing authority of the state which issued the commercial driver's license within ten days.

(i) Any person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if it is determined, in a check of an applicant's license status and record prior to issuing a commercial driver's license or at any time after the commercial driver's license is issued, that the applicant has falsified information on his or her application or any related filing.

(j)(1) Any person is disqualified from driving a commercial vehicle for a period of not less than 30 days if the department receives notification from the Federal Motor Carrier Safety Administration that the person poses an imminent hazard.

(2) If the Federal Motor Carrier Safety Administration notifies the department that a person's driving constitutes an imminent hazard and imposes a disqualification greater than 30 days, the person shall be disqualified from driving a commercial vehicle for the period designated by the Federal Motor Carrier Safety Administration, not to exceed one year.

(k)(1) Any person is disqualified from operating a commercial motor vehicle if convicted of any of the following railroad grade crossing offenses while operating a commercial motor vehicle:

(A) Failing to slow down and check the tracks are clear of an approaching train before proceeding;

(B) Failing to stop before reaching the crossing if the tracks are not clear;

(C) Failing to stop before driving onto the crossing;

(D) Failing to leave sufficient space to drive completely through a railroad crossing without stopping;

(E) Failing to obey a traffic-control device or the directions of an enforcement official at a railroad crossing; or

(F) Failing to negotiate a crossing because of insufficient undercarriage clearance.

(2)(A) Upon a first conviction for an offense listed in paragraph (1) of this subsection, the period of disqualification shall be 60 days.

(B) Upon a second conviction within a three-year period for an offense listed in paragraph (1) of this subsection arising from a separate incident within a three-year period, the period of disqualification shall be 120 days.

(C) Upon a third or subsequent conviction within a three-year period for an offense listed in paragraph (1) of this subsection arising from a separate incident, the period of disqualification shall be one year.

(1)(1) All disqualifications as provided for in subsection (f) of this Code section shall become effective upon the date that the department processes the citation or conviction, provided that no such disqualification is in effect; if such disqualification is in effect the subsequent disqualification shall not take effect until the current disqualification expires.

(2) Notwithstanding paragraph (1) of this subsection, any other disqualification as provided for in this Code section shall become effective upon the date that the department processes the citation or conviction and may run concurrently to any other disqualifications in effect.

(m) All disqualifications provided for in this Code section shall be imposed based on offenses in state law or on offenses of any laws or ordinances equivalent thereto in this state, in any other state, or in any foreign jurisdiction."

SECTION 6.

Said chapter is further amended by revising Code Section 40-5-159, relating to the suspension of commercial driver's licenses and driving privileges, as follows:

"40-5-159.

(a) Any person who drives a commercial motor vehicle while in violation of the provisions of Code Section 40-5-143 or any employer who knowingly allows, requires, permits, or authorizes a driver to drive a commercial motor vehicle in violation of the provisions of subsection (b) of Code Section 40-5-145 shall be guilty of a felony and, upon conviction thereof, shall be punished as follows:

(1) Except as provided for in subsections (d) and (e) of this Code section, by ~~By~~ a civil penalty of \$2,500.00 for each offense; and

(2) By a fine of \$5,000.00, imprisonment for not more than 90 days, or both, for each offense.

(b) Any employer who reports fraudulent information to the department regarding an employee's employment or experience as required under 49 C.F.R. Part 383 shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500.00.

~~(c)(1) Any person who drives a commercial motor vehicle while in violation of the provisions mandated under Code Section 40-5-146 shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500.00. The department shall suspend the commercial driver's license or commercial driving privilege of any driver convicted of violating subsection (a) or paragraph (1) of subsection (b) of Code Section 40-5-146 for a period of six months.~~

~~(2) The department shall suspend the commercial driver's license or commercial driving privilege of any person who is convicted of violating Code Section 40-5-29 in a commercial vehicle for a period of six months.~~

(d) Any employer who knowingly allows, requires, permits, or authorizes a driver to drive a commercial motor vehicle in violation of any federal, state, or local law or regulation pertaining to ~~railroad grade crossings~~ an out-of-service order shall be subject to a civil penalty in an amount not less than \$2,750.00 and not to exceed \$11,000.00.

(e) Any employer who knowingly allows, requires, permits, or authorizes a driver to drive a commercial motor vehicle in violation of any federal, state, or local law or regulation pertaining to railroad grade crossings shall be subject to a civil penalty not to exceed \$10,000.00."

SECTION 7.

Code Section 40-16-4 of the Official Code of Georgia Annotated, relating to duties of the commissioner of driver services, is amended by revising subsection (e) in its entirety as follows:

"(e)(1) The commissioner shall have the authority to appoint and employ 30 investigators who shall be certified peace officers pursuant to the provisions of Chapter 8 of Title 35, the 'Georgia Peace Officer Standards and Training Act.'

(2) The investigators of the department shall have jurisdiction throughout this state with such duties and powers as are prescribed by law."

SECTION 8.

This Act shall become effective on January 1, 2008.

- 1
- SECTION 9.
- 2
- All laws and parts of laws in conflict with this Act are repealed.